

TMCCP Presents

## Legislative Update Seminar

August 17-18, 2017, San Marcos, Texas

HANDOUT FOR

# *“Land Use & Development”*

*with speaker Kim Mickelson*

*President, Texas Chapter, American Planning Association*

TEXAS MUNICIPAL CLERKS CERTIFICATION PROGRAM

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Much Ink Was Spilled:  
Planning Legislation 2017

Kimberley Mickelson, JD, AICP  
President, Texas Chapter, American Planning Association.  
Houston, TX  
August 17, 2017

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Role of APA TX

- TML Affiliate; Elect rep for two year term.
- Provide oral and written testimony. Provide info to members.
- "Craig's List"
  - TXAPA/TML AFFILIATE LEGISLATIVE COMMITTEE Planning/Development Legislation Update as of July 26, 2017

[Txplanning.org](http://Txplanning.org) Policy and Advocacy Link

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APA TX Advocacy, cont.

- Education and training for local and state officials.
  - State conference and regional workshops.
- "Great Places in Texas" program.
  - 2017 Inaugural year.
- Planning month—October
  - Emphasize Great Places, Local Planning Officials
- Planning Matters, Inc.

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What has local government ever done for us?

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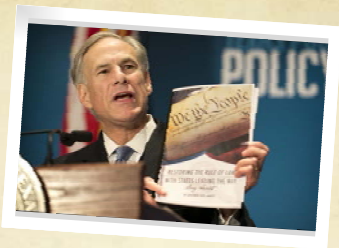
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### Abbott's War on Local Government

Jay Janner, Austin American Statesman via AP and Burkablog, June 16, 2017

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## Abbott: Day One

“Texas is being California-ized and you may not even be noticing it. This is being done at the city level with bag bans, fracking bans, tree-cutting bans. We’re forming a patchwork quilt of bans and rules and regulations that is eroding the Texas model.”

Speech to Texas Public Policy Foundation

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## The Regular Legislative Session

- APA TX identified and tracked 401 planning and development related bills.
- TML followed over 1300 “city-related.” (Out of more than 8000 filed.)
- 43 were signed by the Governor
  - 13 “bad”, 16 good, 12 neutral/not adverse

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## Reg Session (cont.)

- APATX identified a “Dirty Dozen” of legislative planning areas.
- No bills passed on:
  - Payday lending
  - Emergency service districts
  - Property rights and vesting
  - Short term rentals
  - Billboards
  - TIRZs
  - Commuter rail

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## Reg Session (cont.)

- Laws in these areas passed:
  - Manufactured Homes
  - Tree Mitigation Fees (vetoed and sent to special session)
  - Wireless use of ROW

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## SB 1248—Manufactured Homes

- Amends Ch. 211, TLGC, adding a new section to **PROHIBIT CITIES** from affecting the use of a manufactured home lot within a manufactured home community under certain circumstances.
- Amends Ch. 214, TLGC to **PROHIBIT CITIES** from regulating a tract of manufactured homes unless there are at least four lots.

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## SB 744—Tree Mitigation Fees

- Vetoed by Abbott because it didn't go far enough.
- Would have LIMITED CITY USE of funds.
- Six other bills died earlier in the process.

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## SB 1004 Small Cell Nodes in ROW

- Creates Ch 284 TLGC, which authorizes network providers to **USE THE PUBLIC ROW** to:
  - Construct, modify, maintain, operate, relocate, and remove a network node or node support pole
  - Modify or replace a utility pole or node support pole; and
  - Collocate on a pole, subject to an agreement with the municipality or pole owner.

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## What is small cell technology?



This and following pictorial slides by Rebecca Andrews, BBK,

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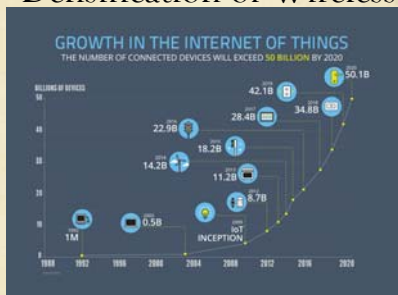
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## Densification of Wireless



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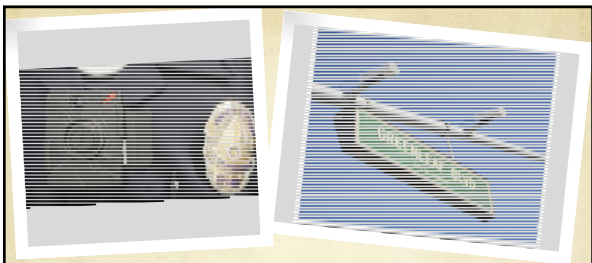
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Public safety, Police vest cameras  
Automated license plate readers

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## Smart Meters




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## Parking systems




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**SB 1004/TLGC Ch. 284**

- Effective date 9/1/17
- **LIMITS FEE AMOUNTS.**
- **MANDATES APPROVAL TIMELINES.**
- Cities must adopt by 9/1/17: Ordinance, Design Manual, Pole Attachment Agreement, Application Forms.
  - Must allow collocation.
  - Must be non-exclusive.

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**Reg Session Other Notables**

- HB 1449—New Construction Fees. **PROHIBITS CITY** from adopting a fee or other charge on new construction if for purpose of offsetting cost or rent of any residential housing unit, unless for height variance.
- HB 1140—Transportation Funding. Effective 9/1/17.
- SB 1305—Transportation Reinvestment Zones; various modifications to the statute; abolishes the TI Fund. Effective 12/31/17.

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**Reg Session Other Notables**

- HB 256—Nuisance Abatement. Gives city attorneys authority to file suit to abate alcohol sales nuisances.
- HB 3329—Electrician registration. **PROHIBITS CITY** from collecting any fee for work performed in city if electrician holds a state license. Effective 9/1/17.
  
- And all the bills that didn't pass....

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## Driverless Cars



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## SB 2205—Automated Vehicles

- Requires the Department of Public Safety (DPS) to govern automated motor vehicles;
- **PROHIBITS LOCAL GOVERNMENTS** from imposing a franchise or other regulation on the operation of an automated motor vehicle;
- Specifies that the owner of an automated motor vehicle is the vehicle's operator for purposes of enforcement of applicable traffic laws;

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## SB 2205 (cont.)

- No licensed human is necessary in the AV, the “operator” is the **entity** licensed to operate the vehicle;
- Provides that an AV may not operate without a recording device installed by the manufacturer and has automated driving system that complies with federal law; and
- Defines the conditions under which an AV may operate on a highway, and addresses liability for accidents.

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## Special Session (1?)

- 20 Items on Abbott's special session call.
- PROHIBITING CITIES from changing rules.
- REQUIRING CITIES to review permits in a certain time period.
- PRE-EMPTING CITIES from adopting texting bans.
- Reducing the CITY Property Tax Cap/Rollback Rate.

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## Special Session (cont.)

- PROHIBITING CITIES from regulating what property owners do to trees on private property.
  - HB 7 passed-IT'S BAAAAACKK!
- Annexation—22 bills passed in Reg; 9 in Special.
  - SB 6 passed with amendments.

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## Looking for Tree-Lined Street

- "Hi. I'm looking for a home in the Austin area - Round Rock, Cedar Park, or anywhere with 45 minutes of downtown Austin. I really want a neighborhood with lots of trees, with tree-lined streets, similar to this <http://www.flickr.com/photos/xde19/2913153100/>
- If there was something similar, that would be fantastic. I also need to be close to highly-rated public schools, and being close to shops (not strip malls) would be a plus. Under \$300k ....."

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## HB 7—Trees

- Amends Ch. 212 to add section on Regulation of Tree Removal
  - Applies to any fee charged in connection with the removal of a tree from private property (really limited to residential use)
  - Can't require fee if on existing single or duplex residential use AND tree is less than 10" at 4.5' above ground.
  - For other tree removal, fee must be allowed to be offset by a credit for tree planting on the same site or additional site.
  - Credit is sliding scale (100% if SFR, ≥ 50% if new 1 or 2 family residence, ≥ 40% if not a residential structure.

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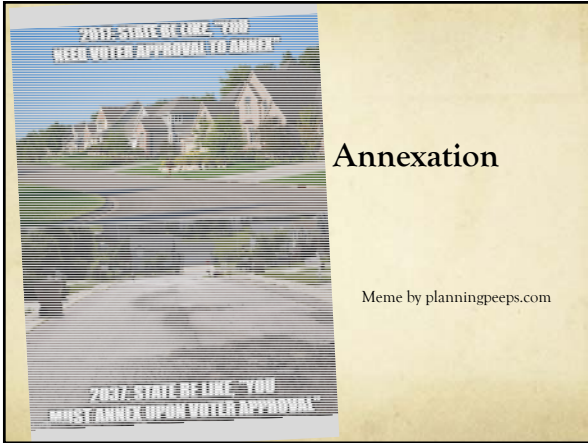
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## SB 6 Annexation Changes

- Rewrites Ch 43, TLGC, to SEVERELY CURTAIL CITY AUTHORITY to annex property. Effective 12/1/17.
- Creates a new system of "Tier 1" and "Tier 2" counties and cities; voters can turn a Tier 1 entity into a Tier 2 (more restrictive) pretty easily by petition.
- A Tier 1 city may continue annexation if under a 3 year plan, or exempt annexations.

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## SB 6 Counties

- Tier 1 County = Population\* of less than 500K
  - Except Kaufman County
- Tier 2 County = Population of 500K or more OR a Tier 1 county that ELECTS to become a Tier 2 county\*\*

\* Use latest census, per Gov't Code

\*\* Petition can be signed by more than 10% of voters and approval at county-wide election.

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## SB 6 Cities

- Tier 1 City—wholly located in one or more Tier 1 counties that proposes to annex area wholly in same.
- Tier 2 City—wholly or partly located in Tier 2 county OR wholly located in 1 or more Tier 1 counties that proposes to annex area wholly or partly in Tier 2 county.

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## SB 6 Procedures

- Cities who want to annex MUST PAY FOR election in area to be annexed, or
- MUST get petitions from more than 50% of voters who own more than 50% of the land.
- Requires additional mailed notices- to residents and political subdivisions.
- Plan must include proposal to abate or limit any financial impact on the public entity.
- Tier 2 cities may annex for limited purposes of applying planning, zoning, health, safety ordinances only by all the above procedures—with ltd. exceptions.

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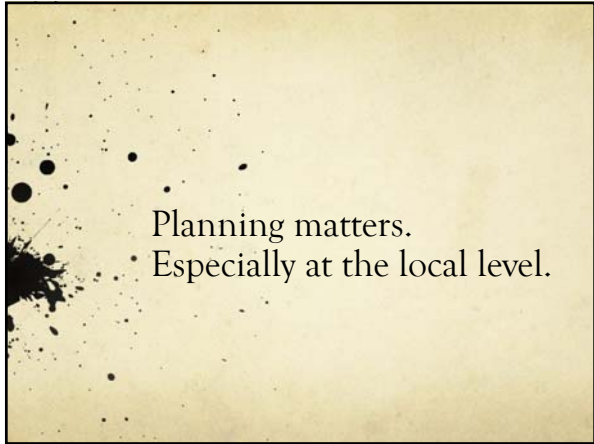
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